

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of:

Bernhard Goebel

Serial No.: **09/933,249**

Filed: **August 20, 2001**

For: **STUD WELDING DEVICE
WITH CONTACT PROTECTION**

Art Unit: 1725

Docket No.: **GER8700**

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JAN 15 2004
TC 1700

**PETITION TO THE COMMISSIONER UNDER 37 C.F.R. § 1.181
TO WITHDRAW HOLDING OF ABANDONMENT**

Honorable Commissioner
Of Patents and Trademarks
Washington DC 20231

Sir:

This is a petition under 37 C.F.R. §1.181(a) requesting withdrawal of the holding of abandonment of the above-identified application.

On August 20, 2001, Applicant filed the above-identified application in the U.S. Patent and Trademark Office ("the USPTO") without a signed Declaration.

On September 26, 2001, Applicant received from the USPTO a *Notice to File Missing Parts of Nonprovisional Application filed under 37 CFR 1.53(b)* ("the NOTICE"), dated September 25, 2001, wherein it was noted that the oath or declaration was unsigned. A copy of the NOTICE, dated stamped as received by Applicant's representative on September 26, 2001, is enclosed.

On October 1, 2001, a USPTO *Transmittal Form* (PTO/SB/21) was mailed to Box Missing Parts via U.S. Postal Service First Class Mail by the Applicant's representative. Attached to the *Transmittal Form* (PTO/SB/21) were the following papers:

- a *Fee Transmittal* for FY 2001 (PTO/SB/17);
- a USPTO copy of the NOTICE;
- the *Combined Declaration and Power of Attorney for Patent Application* signed by Bernhard Goebel on August 23, 2001;
- a *Recordation Form Cover Sheet for Patents Only and Assignment*, also signed by Bernhard Goebel on August 23, 2001;
- a certified copy of the Priority Document; and
- a return receipt post card dated October 1, 2001.

Copies of the *Transmittal Form* (PTO/SB/21) and its attachments (collectively "the PAPERS"), as noted above, are enclosed.

On October 3, 2001, the PAPERS were received by the USPTO OIPE, as evidenced by the date stamped return receipt post card enclosed herewith.

On December 22, 2003, Applicant received a *Notice of Abandonment Under 37 CFR 1.53 (f) or (g)*, dated December 19, 2003, for failure to timely and properly reply to the NOTICE. A copy of the *Notice of Abandonment Under 37 CFR 1.53 (f) or (g)* is enclosed.

As supported by the enclosed evidence, as noted above and submitted herewith, Applicant responded to the NOTICE within the designated period for response set by the USPTO in a timely and proper manner. Accordingly, a *Notice of Abandonment Under 37 CFR 1.53 (f) or (g)* should not have been issued in this application, and Applicant requests that the holding thereof be withdrawn.

The Assistant Commissioner is hereby authorized to charge any fees which may be required in the filing of this Petition, or credit any overpayment, to Deposit Account No. 02-2550. One copy of this paper is attached for this purpose.

In anyone wishes to discuss this Petition, or any other aspect of this application, they should call Applicant's representative, identified below, at (410) 716-3242.

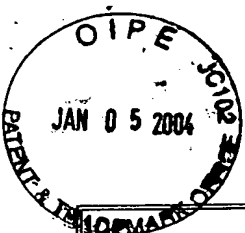
Respectfully submitted,



Edward D. Murphy
Attorney for Applicant
Reg. No. 20,625

Date: 30 Dec 03

Edward D. Murphy
The Black & Decker Corporation
701 East Joppa Road, TW199
Towson, Maryland 21286
(410) 716-3242 (telephone)



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RECORDATION FORM COVER SHEET PATENTS ONLY		Commissioner of Patents and Trademarks Washington, D.C. 20231	
To the Honorable Commissioner of Patents and Trademarks: Please record the attached original documents or copy thereof.		Attorney Docket No.: <u>GER8700</u>	
1. Name of conveying party(ies): Bernhard Goebel		2. Name and address of receiving party(ies): Emhart Inc. Drummond Plaza Office Park 1423 Kirkwood Highway Newark, Delaware 19711 U.S.A.	
Additional name(s) of conveying party(ies) attached?....._Yes <u>X</u> No		Additional name(s) & address(es) attached?....._Yes <u>X</u> No	
3. Transaction To Be Recorded: <u>X</u> Assignment _Change of Name _Security Agreement _Merger _License Agreement _Other Execution Date: <u>August 23, 2001</u>			
4. Application number(s) or patent number(s): A. Patent Application No.(s): <u>09/933,187</u> Additional numbers attached? _Yes <u>X</u> No B. Patent No.(s): If this document is being filed together with a new application, the execution date of the application is:			
5. Name and address of party to whom correspondence concerning documents should be mailed: ATTN: <u>EDWARD D. MURPHY - TW199</u> <u>THE BLACK & DECKER CORPORATION</u> <u>701 EAST JOPPA ROAD</u> <u>TOWSON, MARYLAND 21286</u>		6. Total number of applications and patents involved:..... <u>1</u>	
		7. Total fee (37 CFR 3.41).....\$ <u>40</u> _Enclosed _Authorized to charge any deficiencies in enclosed fees to deposit account <u>X</u> Authorized to be charged to deposit account	
		8. Deposit Account Number: <u>02-2550</u>	
DO NOT USE THIS SPACE			
9. Statement and signature. To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.			
<u>Edward D. Murphy</u> Name of Person Signing		<u><i>ED Murphy</i></u> <u>1 Oct 01</u> Signature Date	

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Docket No. GER8700

ASSIGNMENT

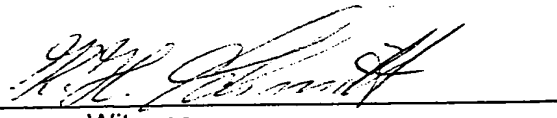
WHEREAS, I, **BERNHARD GOEBEL** of Ostpreussenstrasse 1, 35633 Lahnau, Germany, have made an invention of certain new and useful improvements in a **STUD WELDING DEVICE WITH CONTACT PROTECTION** for which I have filed an application for Letters Patent in the United States Patent and Trademark Office. I believe that I am the original and first inventor of the subject matter which is claimed and for which patent is sought;

AND WHEREAS, **EMHART INC.**, a corporation organized and existing under the laws of the State of Delaware, and having its principal office at Drummond Plaza Office Park, 1423 Kirkwood Highway, Newark, Delaware 19711, U.S.A., is desirous of acquiring an interest in the United States and all foreign countries, in and to the said invention and the Letters of Patent to be obtained therefor;

NOW, THEREFORE, TO ALL WHOM IT MAY CONCERN, be it known that, for good and valuable considerations, the receipt of all of which is hereby acknowledged, I have sold, assigned and transferred, and by these presents do sell, assign and transfer unto said **EMHART INC.** the entire right, title and interest in and to said invention in the United States and all foreign countries as fully set forth and described in the application filed in the United States Patent and Trademark Office, assigned **U.S. Serial No. _____** and identified by attorney **Docket No. GER8700**; and I do hereby authorize and request the Commissioner of Patents to issue said Letters of Patent on said application, and any and all Letters Patent that may be issued upon any and all revivals, refilings, continuations, continuations-in-part, divisions and reissues thereto, to the said **EMHART INC.** as assignee of the entire right, title and interest in and to the same, for the sole use and behalf of **EMHART INC.**, its successors and assigns; and I do hereby agree that **EMHART INC.** may apply for foreign Letters Patent on said invention and that I will execute all papers necessary in connection with the United States and foreign applications when called upon to do so by **EMHART INC.**, its successors or assigns.

IN TESTIMONY WHEREOF, I have hereunto set my hand.

L.S.


Bernhard GoebelDate: 2001-08-23
Witness
Witness

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ASSISTANT COMMISSIONER OF PATENTS OR TRADEMARKS

10-1-2001

Kindly acknowledge receipt of the items marked (x). Please date stamp and return.

Applicant Goebel Serial No. 09/933249

Amendment
Abandon/Application*
Assignment
Cert. Priority Doc.
Statement of Use
Specimens (3)
Drawings Sheets
Appeal/Brief

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Info. Disclosure Statement
~~Issue~~ Fee Transmittal
Missing Parts
Extension of Time
Transmittal Letter in-trip/dup.
Check for \$
Other: Declaration / POA
Recordation Cover Sheet

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*Specification has pages, including claims, and un/signed Declaration.

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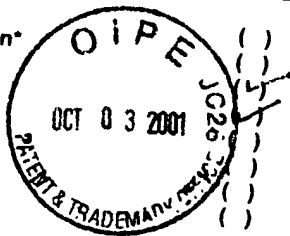
10-1-2001

Kindly acknowledge receipt of the items marked (x). Please date stamp and return.

Applicant Goebel

Serial No. 09/933249

Amendment
Abandon/Application*
Assignment
Cert. Priority Doc.
Statement of Use
Specimens (3)
Drawings Sheets
Appeal/Brief



Info. Disclosure Statement
~~Issue~~ Fee Transmittal
Missing Parts
Extension of Time
Transmittal Letter in trip/dup.

Check for \$
Other: Declaration / POA
Recordation Cover Sheet

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*Specification has pages, including claims, and un/signed Declaration.

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Docket No. GER 8700

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**Prioritätsbescheinigung über die Einreichung
einer Gebrauchsmusteranmeldung**

Aktenzeichen: 200 15 400.1

Anmeldetag: 6. September 2000

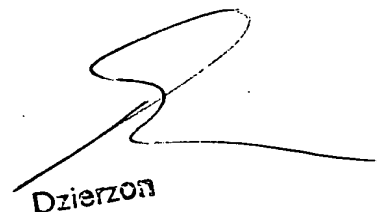
Anmelder/Inhaber: Emhart Inc., Newark, Del./US

Bezeichnung: Bolzenschweißvorrichtung mit Kontaktschutz

IPC: B 23 K 9/20

Die angehefteten Stücke sind eine richtige und genaue Wiedergabe der ursprünglichen Unterlagen dieser Gebrauchsmusteranmeldung.

München, den 31. Juli 2001
Deutsches Patent- und Markenamt
Der Präsident
Im Auftrag


Dzierzon